

REMARKS

In the June 29, 2004 Office Action, the Examiner rejected claims 1 – 6, 9, and 10 under U.S.C. § 103(a) as being unpatentable over Yamaki et al. (US 2003/0110928 A1) in view of Kamiya (5,698,802). The examiner objected to claims 7 and 8 as being dependent on a rejected base claim, but noted that claims 7 and 8 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. These rejections are respectfully traversed.

Attached herewith is a certified English translation of Japanese Patent Application No. 2001-156622 (“the priority application”), from which the present application claims priority pursuant to 35 U.S.C. § 119. The filing date of the priority application is May 25, 2001. The filing date of Yamaki et al. is October 15, 2002. Accordingly, because applicant’s priority date is earlier than the filing date of Yamaki et al., Yamaki et al. is not prior art under 35 U.S.C. § 102(e), and therefore cannot be used in a rejection under 35 U.S.C. § 103(a).

The present application is a continuation of PCT application JP02/04950 (“the PCT application”), having an international filing date of May 22, 2002. Thus priority is also claimed in the present application to the PCT application pursuant to 35 U.S.C. §120. 35 U.S.C. § 363 provides that a PCT application shall have the effect, from its international filing date, of a national application regularly filed, except for its use as prior art under 102(e). For the purposes of 35 U.S.C. § 119, the present application has an effective filing date of May 22, 2002. This is less than one year following the June 8, 2001 publication of Yamaki et al. Thus, Yamaki et al. cannot be used as prior art under 35 U.S.C. § 119, which provides that “no patent shall be granted on any

application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country....”

Yamaki et al. also claims priority to a PCT application, PCT/JP00/08422 (“the Yamaki PCT application”), filed on November 29, 2000 and published in the Japanese language on June 7, 2001. However, a PCT application may qualify as prior art under 35 U.S.C. § 102(e) only if it is published in the English language. Because the Yamaki PCT application was published in Japanese and not in English, it is not prior art under 35 U.S.C. § 102(e), and therefore cannot be used in a rejection under 35 U.S.C. § 103(a).

The removal of Yamaki et al. and the Yamaki PCT application as prior art is sufficient to place independent claim 1 in a condition of allowance. Independent claim 1 recites (with emphasis added):

“A musical tone reproducing apparatus ... comprising:
a tone generator memory as a general-purpose memory in which is registered at least a tone color parameter group comprising a freely chosen number of tone color parameters read out from said system storage means;
a cache memory ...;
a tone generator means ...; and
a tone generator control means ...,
wherein, ... the tone color parameters are stored in said tone generator memory....”

With respect to independent claim 1, the examiner relied upon Yamaki et al. in combination with Kamiya. The examiner stated that Kamiya discloses a cache memory. With respect to the remaining elements of independent claim 1, the examiner relied upon Yamaki et al. Kamiya does not disclose these remaining elements of independent claim 1, including a musical tone reproducing apparatus comprising a tone

generator memory, a tone generator means, and a tone generator control means wherein the tone color parameters are stored in said tone generator memory. Thus, the removal of Yamaki et al. as prior art is sufficient to place independent claim 1 in condition of allowance.

Kamiya does not disclose **a tone generator memory as a general-purpose memory in which is registered at least a tone color parameter group comprising a freely chosen number of tone color parameters read out from said system storage means**. Kamiya discloses a tone generator composed of a wave table and program memory, the wave table being formed by a semiconductor memory having a large memory capacity and storing a plurality of waveform data. (Kamiya, col. 3, lines 38-44). Although Kamiya discloses a tone generator memory storing a plurality of waveform data, it does not disclose a tone generator memory in which is registered at least a tone color parameter group comprising a freely chosen number of tone color parameters.

Furthermore, independent claim 1 recites a tone generator memory located on the musical tone reproducing apparatus. In contrast, Kamiya discloses a tone generator memory located on a host computer. (Kamiya, col. 3, lines 38-40). Storing tone color parameters on the musical tone reproducing apparatus as recited in independent claim 1 decreases the processing time required for tone changes, and lessens the occurrence of breaks in sound generation.

As stated above, Yamaki et al. is not prior art, and Kamiya discloses neither a tone generator memory in which is registered at least one tone color parameter group, nor a tone generator located on the musical tone reproducing apparatus. Therefore,

independent claim 1 distinguishes over Kamiya. Claims 2-10 all depend, directly or indirectly, from independent claim 1, and therefore also distinguish over Kamiya for the same reasons as those set forth above with respect to independent claim 1.

Accordingly, applicant respectfully submits that the Examiner's rejection of claims 1-6, 9, and 10 under 35 U.S.C. § 103(a), and the Examiner's objection to claims 7 and 8, should be withdrawn.

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Applicant believes that the foregoing remarks place the application in condition for allowance, and a favorable action is respectfully requested. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call either of the undersigned attorneys at the Los Angeles telephone number (213) 488-7100 to discuss the steps necessary for placing the application in condition for allowance should the Examiner believe that such a telephone conference would advance prosecution of the application.

Respectfully submitted,

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